

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

DISTRICT JUDGE GERALD BRUCE LEE
MAGISTRATE JUDGE JOHN F. ANDERSON

MICROSOFT CORPORATION)	
)	
Plaintiff,)	
v.)	CASE NO. 1:08cv00596-GBL-JFA
)	
L & Y ELECTRONICS, INC.,)	
)	
JOHN A. LINTON, and)	
)	
SANGSOON LINTON)	
)	
Defendants.)	

DEFENDANT SANGSOON LINTON’S MEMORANDUM IN SUPPORT OF HER
MOTION TO COMPEL

Defendant, SANGSOON LINTON (“Defendant” hereinafter) by counsel, submit this memorandum in support of Defendant Sangsoon Linton’s Motion to Compel as follows:

1. This case involves Microsoft’s claims that Defendant infringed Microsoft Corporation’s (“Microsoft” hereinafter) intellectual property rights by distributing counterfeit copies of its software product Microsoft Office Professional 2003 Edition (“Office 2003”). As Office 2003 is an abandoned product, Microsoft seeks instead of actual damages, statutory damages under U.S. copyright and trademark laws. Microsoft alleges that eight registered

trademarks and eight registered copyrights were infringed.

2. On September 2, 2008 Defendant served on Microsoft her first request for production of documents (Defendant Sangsoon Linton's First Request for Production of Documents to Plaintiff Microsoft Corporation). In most part, the requests were directed to either copyright registrations or trademark registrations.

3. In seeking to defend to statutory copyright damages, Defendant requested that Microsoft provide a copy of its correspondence and filings with the U.S. Copyright Office (Requests 1, 2, 4, 5, 7, 8, 10, 11, 13, 14, 16, 17, 19, 20, 22, 23). In addition, Defendant requested copies of documents that would identify whether or not Microsoft has transferred ownership of the copyrights to others (Requests 3, 6, 9, 12, 15, 18, 21, 24).

4. In seeking to defend statutory trademark damages, Defendant requested that Microsoft provide a copy of its correspondence and filings with the U.S. Patent and Trademark Office (Requests 25, 27, 29, 31, 33, 35, 37, 39). In addition, Defendant requested copies of documents that would identify whether or not Microsoft has transferred ownership of the trademarks to others (Requests 26, 28, 30, 32, 26, 38, 40).

5. Microsoft has denied all of Defendant's requests. Its response is attached hereto as Exhibit A.

6. In accordance with Local Rule 37(E) attempts were made to resolve the discovery disagreement between counsel. However, no resolution was obtained. Microsoft's Counsel indicated that Microsoft does not feel copyright and trademark filings are relevant in this matter and that Microsoft does not plan on forwarding any responsive documents to these

requests.

7. Copyright responses are needed because statutory damages are limited in accordance with what Microsoft has registered and the substance of what is registered does not appear in the registration certificates.

8. Trademark responses are needed because Microsoft trademark registrations have product limitations and Defendant needs the ability to understand the limitations in view of the trademark file histories.

CONCLUSION

WHEREFORE Defendant respectfully request that Plaintiff be compelled to fully respond to Defendant Sangsoon Linton's First Request for Production of Documents to Plaintiff Microsoft Corporation, or in the alternative, be prohibited from using any requested but not provided documents at trial or in support of any other pleading.

Respectfully submitted,

/s/

Timothy Graves, Esq.
Virginia State Bar No. 45,414
Co-counsel for Defendants
A Attorney LLC
9300 Grant Avenue, Suite 203
Manassas, Virginia 20110
Phone: 703-365-8306
Fax: 703-365-8307
a-atty@verizon.net

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of October, 2008, I will electronically file the forgoing Memorandum with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

John K. Roche, Esq.
Counsel for Plaintiff
PERKINS COIE, LLP
607 Fourteenth Street, N.W., Suite 800
Washington, D.C. 20005
Phone: 202-434-1627
Fax: 202-654-9106
jroche@perkinscoie.com

/s/

Timothy Graves, Esq.
Virginia State Bar No. 45,414
Co-counsel for Defendants
A Attorney LLC
9300 Grant Avenue, Suite 203
Manassas, Virginia 20110
Phone: 703-365-8306
Fax: 703-365-8307
a-atty@verizon.net